

Serial Number 10/540,778

REMARKS

In view of the preceding amendments and the following remarks, Applicants respectfully request the Examiner to reconsider the patent application identified above and withdraw the present rejection. Claims 1-6 are pending in the present application, all of which stand currently rejected.

37 C.F.R. §1.84:

The Examiner objected to the drawings as failing to comply with 37 C.F.R. §1.84(p)(4) regarding reference numerals 30 and 32, stating that "it appears to be the same internal space in Figure 3."

However, the present application describes them as follows:

A first and second internal space 30 and 32 are defined inside the shaft 12, located immediately proximal and distal from the side opening 24.

(Page 5, lines 20-21.) Accordingly, Figure 3 shows reference numerals 30 and 32 as being "defined inside the shaft 12, located immediately proximal and distal from the side opening 24." Thus, the first and second spaces are defined as different locations inside the shaft.

37 C.F.R. §1.83:

The Examiner objected to the drawings under 37 C.F.R. §1.83(a), regarding a "curved path" in Claim 2, "guidewire lumen" and "distal guidewire port" in Claim 3, and "one or more marker bands" in Claim 5.

Applicants have canceled Claims 2, 3 and 5, and may present them in a later continuing application.

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Specification:

The Examiner objected to the specification because of the following informality: separating "Background and Summary of the Invention" sections. Applicants have amended the specification accordingly. No new matter has been entered.

Claims:

The Examiner objected to Claims 1 and 6 because of the following informality: the recitation "internal space" should be replaced with "internal spaces". Applicants have amended the claims accordingly.

35 U.S.C. §112:

The Examiner rejected Claims 1-6 under 35 U.S.C. §112, second paragraph, as being indefinite.

The Examiner stated the "first and second internal spaces" appear to be the same space as shown in Figure 3. However, the first internal space is "positioned proximally ... of the opening", and the second internal space is "positioned ... distally of the opening". Both of the first and second internal spaces are defined by the "flexible shaft", with first being defined proximal of the opening, and the second being defined distal of the opening. In other words, the first and second spaces are defined by different portions of the shaft.

Regarding paragraph 5 of Claim 1, Applicants have amended Claim 1 to more clearly recite the present invention.

Regarding Claim 2, the "curved path" may be defined by the flexible shaft when it is within a body, or not. Also, Claim 2 has been canceled in the present application.

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35 U.S.C. §101:

The Examiner rejected Claim 2 on the grounds of non-statutory subject matter. This rejection is incorrect. Claim 2 recites that the "longitudinal axis and shaft follow a curved path", which may occur when the catheter is in the packaging, laying on a table, in a doctor's hands, etc. No part of a body is recited any of the claims. Also, Claim 2 has been canceled in the present application.

35 U.S.C. §103:

Examiner rejected Claims 1, 4 and 6 under 35 U.S.C. §102(b) or 35 U.S.C. §103(a) over Dulebohn (U.S. 5,171,314). Applicants respectfully submit that the cited references fail to teach or suggest the present invention, as recited in the claims.

The Examiner stated the "Dulebohn discloses ... a flexible shaft", and that "the tip must be flexible since [it] is used inside a body." With respect, Dulebohn discloses a *surgical* snare, and surgical devices contemplate the body being cut open, so they do not need to be flexible. In contrast, the shaft of the present filter retrieval system must be flexible to follow body passageways, *without* needing surgical access.

In any event, the "snare" of Dulebohn cannot be pulled into "a range of positions, including the position of the opening and the positions of the first and second internal spaces".

The Examiner rejected Claims 3 and 5 under 35 U.S.C. §103(a) as being unpatentable over Dulebohn, and further in view of Yadav, et al. (U. S. 6,391,044).

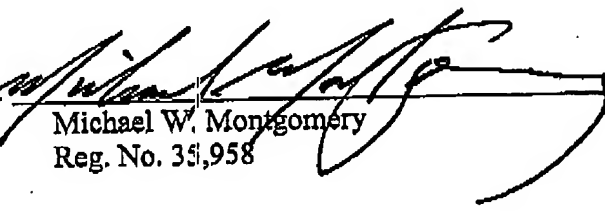
The Examiner rejected Claim 5 under 35 U.S.C. §103(e) as being unpatentable over Dulebon, and further in view of Welter, et al. (U. S. 5,342,371).

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Applicants submit that the present invention distinguishes the cited references, for the reasons set forth above. Accordingly, Applicants respectfully request the Examiner to allow the present application.

Respectfully submitted,
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